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6 Attorneys for Defendants  
THE GAP, INC., a/k/a, GAP, INC., GAP INTERNATIONAL  
7 SALES, INC., BANANA REPUBLIC, LLC, AND OLD NAVY,  
LLC

8 UNITED STATES DISTRICT COURT  
9  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION

12 ROOTS READY MADE GARMENTS CO.  
13 W.L.L.,

14 Plaintiff,

15 v.

16 THE GAP, INC., a/k/a, GAP, INC., GAP  
INTERNATIONAL SALES, INC., BANANA  
17 REPUBLIC, LLC, AND OLD NAVY, LLC

18 Defendants.

Case No. C 07-03363 CRB

**DECLARATION OF ROSE DARLING IN  
SUPPORT OF GAP'S OPPOSITION TO  
ROOTS' EX PARTE APPLICATION TO  
EXTEND TIME TO SERVE EXPERT  
DISCLOSURE**

Date: N/A  
Time: N/A  
Dept: Courtroom 8, 19<sup>th</sup> Floor  
Judge: Hon. Charles R. Breyer

1           1.       I am an attorney licensed to practice law in the State of California and before this  
2 Court and am an associate at Kecker & Van Nest, LLP, counsel for defendants The Gap, Inc.,  
3 a/k/a, Gap, Inc., Gap International Sales, Inc., Banana Republic, LLC, and Old Navy, LLC  
4 (collectively "Gap").

5           2.       On June 26, 2008, Roots' counsel Brad Nash and I agreed that expert disclosures  
6 would be due on August 4, 2008, and rebuttal disclosures on August 18, 2008. As of June 26,  
7 both Gap and Roots had already disclosed to one another the identity of the expert that each had  
8 engaged.

9           3.       On July 25, 2008, Mr. Nash contacted me to ask for a further extension of time to  
10 serve its expert disclosures, until August 18. In response, I told Mr. Nash that delaying expert  
11 disclosures that much would not work because (a) Gap's expert was out of the country on a  
12 planned vacation the week of August 25 and thus would be unavailable to prepare a rebuttal  
13 report that week and (b) Rule 26(a)(3) pretrial disclosures were due on September 5 and opening  
14 motions *in limine* on September 10, and thus pushing expert discovery into September would  
15 hamper Gap's ability to prepare those submissions. Mr. Nash, however was insistent that Roots  
16 needed additional time to prepare its expert disclosures, and thus on August 1, 2008, I agreed to  
17 extend the time for Roots to serve its report to August 13, 2008, with Gap's rebuttal due August  
18 27. This was a significant compromise, given that Gap's expert is on vacation the week of  
19 August 25, and thus Gap would have effectively less than 2 weeks to prepare a rebuttal report.

20           4.       Instead of serving its expert report on August 13, however, Roots on that day  
21 disclosed to Gap under the parties' protective order **another** expert that Roots apparently intends  
22 to use, and sought ex parte relief from the Court for an extension of time to serve its expert  
23 disclosures. Attached hereto as **Exhibit A** is a true and correct copy of an email dated August  
24 13, 2008 from Mr. Nash to me disclosing Roots' new expert.

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1 I declare under penalty of perjury under the laws of the State of California that the  
2 foregoing is true and correct, and that this Declaration was executed on August 14, 2008 at San  
3 Francisco, California.

4  
5 /s/ Rose Darling  
ROSE DARLING